

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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JOHN BRDA,

Petitioner,

Index No. _____

v.

X CORP. f/k/a TWITTER, INC.,

Respondent,

**PETITION TO COMPEL
DISCLOSURE
(CPLR § 3102(c))**

For an Order, pursuant to Section 3102(c) of the Civil Practice Law and Rules, to Compel Disclosure of the Identity of the Owner(s) and Operator(s) of the Twitter Account “John Brda (Parody)” (@john_brda), who is a Prospective Defendant in an Action to be Commenced by Petitioner.

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Petitioner John Brda (“Brda” or “Petitioner”), by and through his attorneys, The Basile Law Firm P.C. and Mark R. Basile, Esq., as and for his verified petition (“Petition”) seeking pre-action disclosure pursuant to CPLR § 3102(c), allege as follows:

NATURE OF THIS PROCEEDING

1. Petitioner submits this Petition for Pre-Action Disclosure from Respondent Financial Industry Regulatory Authority (“FINRA” or “Respondent”) so Petitioner can identify prospective defendants in an action to be commenced by Petitioner. Petitioner anticipates bringing claims for damages for identity theft, criminal impersonation, misrepresentation, market manipulation, and fraud.

PARTIES

2. John Brda is an individual residing in the State of Missouri, County of Saint Louis.

MARTINEZ DEC

EXHIBIT 3

exhibitsticker.com

3. Respondent X Corp. f/k/a Twitter, Inc. (“Twitter”) is a corporation formed under the laws of the State of Delaware, with its principal place of business located at 1355 Market Street, Suite 900, San Francisco, California 94103.

4. Twitter is registered with the New York Secretary of State to do business in the State of New York as a foreign corporation.

5. Upon information and belief, “John Brda (Parody)” (@john_brda) is a Twitter user that authored and posted impersonating tweets on May 23, 2023 (the “Subject Tweets”), intending to damage Petitioners’ reputation.

6. Filed herewith as **Exhibits 1** (“First Subject Tweet”), **2** (“Second Subject Tweet”), and **3** (“Third Subject Tweet”, collectively the “Subject Tweets”) are true and correct copies of the Subject Tweets.

7. The Subject Tweets have damaged Petitioner and Petitioner’s reputation and threatens to continue doing so unless Petitioners are able promptly to obtain the information sought herein, enabling them to sue the responsible parties.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action under CPLR § 3102(c).

9. This Court has personal jurisdiction over Respondent pursuant to CPLR § 3102(c), as Respondent is “doing business” in New York by engaging in a systematic and continuous course of maintaining a highly interactive website targeting New York residents (CPLR § 301), and has a “presence” in New York by registering with New York’s Secretary of State and by maintaining offices at 245 W 17th St, New York, New York 10011 to conduct business in New York.

10. Venue is proper in New York County because Twitter maintains offices located in New York County.

FACTUAL ALLEGATIONS

11. John Brda is the former Chief Executive Officer of Torchlight Energy Resources, Inc. (“Torchlight Energy”) and former consultant to Meta Materials, Inc. (“Meta Materials”). Mr. Brda uses Twitter to connect with shareholders of Meta Materials common (“MMAT”) and preferred (“MMTLP”) stock.

12. Petitioner received founders shares of Torchlight Energy on June 25, 2010. Petitioner has held his shares through the merger of Torchlight Energy and Meta Materials. Petitioner holds 1,156,911 Meta Materials shares and has never sold any Meta Materials shares. *See* Affidavit of John Brda. On June 28, 2021, Petitioner received 1,930,000 shares of Next Bridge as a dividend and Petitioner has never sold any shares of Next Bridge. *Id.*

13. Twitter is a public platform and the information posted on the website is available for any user to view. As of May 24, 2023, Brda’s account has 15,160 followers. Due to the public nature of the platform, tweets directed at Brda can be seen by no fewer than 15,160 people at any given time.

The Subject Twitter Account

14. “John Brda (Parody)” (@john_brda) (the “Subject Account”) is a Twitter account created by an unknown individual or group of individuals. The Subject Account is an imposter account using Petitioner’s likeness as its profile picture and using Petitioner’s name as its own under the guise of a “parody”.

15. The Subject Account was created on or about May 21, 2023 and the first tweet was posted on May 21, 2023. The Subject Account's first tweet implies that the account was created for the purpose of impersonating Petitioner.



16. The Subject Account's Twitter bio states that it is located in "Orogrande Basin". Upon information and belief, this location is not the unknown individual or individuals' true location, but is instead a reference to an oil and natural gas project being undertaken by Next Bridge Hydrocarbons, Inc. ("Next Bridge")¹, a company spun out of Meta Materials after the merger of Meta Materials and Torchlight Energy.

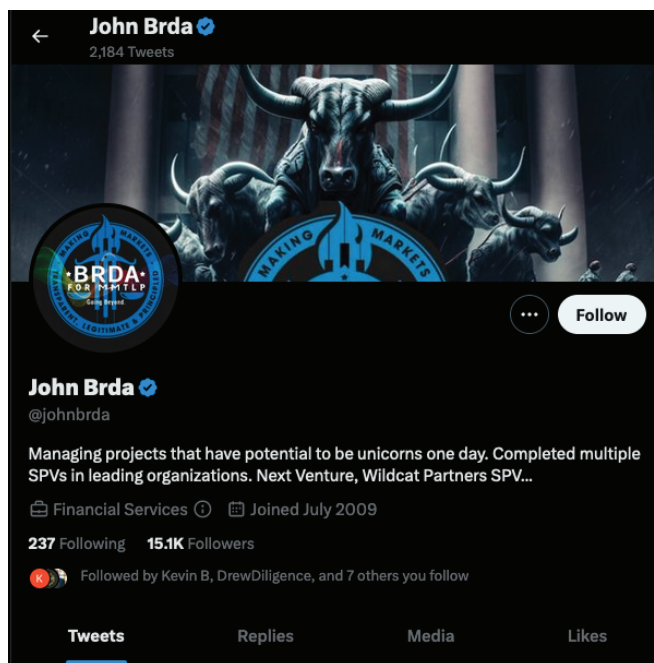


¹ See

<https://www.prnewswire.com/news-releases/next-bridge-hydrocarbons-inc-acquires-remaining-working-interest-in-orogrande-project-301825685.html> (last accessed May 24, 2023).

Source: Twitter.com, available at https://twitter.com/john_brda (last accessed May 24, 2023).

17. As of May 24, 2023, Brda's real and true public Twitter profile (@johnbrda) had approximately 15,160 followers.



Source: Twitter.com, available at <https://twitter.com/johnbrda> (last accessed May 24, 2023).

18. Due to his substantial number of followers, tweets directed at Brda can be seen by no fewer than 15,160 people at any given time. Anything tweeted to Brda's Twitter account has substantial influence on market activity, including but not limited public perception of Brda.

The Subject Tweets

19. On May 23, 2023 at 10:27 A.M., the Subject Account posted the First Subject Tweet containing an artificially generated, "deepfake" video which deceptively uses Petitioner's true likeness and voice to give a "public statement" to current and former Torchlight Energy, Next Bridge, and MMTLP shareholders. *See Exhibit 1.*² The owners and/or

² An archive of the video contained in the First Subject Tweet is being maintained here: <https://bit.ly/45vJ9uX> (last accessed May 26, 2023).

operators of the Subject Account used artificial intelligence to depict Petitioner both visually and audibly, leading the viewers of the First Subject Tweet to believe it is indeed Petitioner in the video. The purpose of creating and sharing this video is to disparage Petitioner, spread misinformation to the public, and damage Petitioner's public image and reputation.

20. In a subsequent tweet, the Second Subject Tweet posted on May 23, 2023 at 3:25 P.M., the Subject Account compares Brda to Sam Bankman-Fried, the Chief Executive Officer of the Futures Exchange, or FTX, a bankrupt cryptocurrency exchange. *See Exhibit 2.* On December 13, 2022, Bankman-Fried was indicted on securities fraud and money laundering charges in the Southern District of New York. The Second Subject Tweet alleges, and attempts to convince the public, that Petitioner has committed acts of moral turpitude, specifically securities fraud to enrich himself in a similar manner to Bankman-Fried.

21. In a Third Subject Tweet, posted on May 23, 2023 at 3:55 P.M., the Subject Account asked the general public to retweet the Third Subject Tweet and follow the account. The Subject Account also asked the general public to ask questions regarding Torchlight Energy, Meta Materials, and Next Bridge and the questions would be answered as if Petitioner was answering. This was not authorized by Petitioner.

22. It is unquestionable that ordinary Twitter users believe that the Subject Account is operated by Petitioner. Twitter users have asked the individual or individuals operating the Subject Account questions regarding Torchlight Energy, Meta Materials, and Next Bridge. The Subject Account convinced ordinary Twitter users that it was being operated by Petitioner and answered questions as if it were Petitioner, referencing prior false tweets made by the Subject Account. *See Exhibit 3.*

23. The individual or individuals operating the Subject Account intended to publish the Subject Tweets and knew that the Subject Tweets were false.

24. The individual or individuals operating the Subject Account acted with malice when they made the Subject Tweets, knowing the tweets were false, *or*, in the alternative, the tweets were made with reckless disregard for the truth of the tweet.

25. The Subject Tweets are undeniably and provably false. *See* Affidavit of John Brda.

26. The Subject Tweets inflicted harm on Petitioner. Petitioner has been exposed to public contempt, ridicule, aversion, disgrace, and/or unfavorable opinions of him, as right-thinking persons (*e.g.*, a current or previous Torchlight Energy, Meta Materials, or Next Bridge investor) who now erroneously view Petitioner as a selfish corporate individual who would enrich himself at the expense of his legitimate stockholders.

27. The statements made in Subject Tweets allege Petitioner had committed, or is committing acts of moral turpitude such as defrauding Meta Materials and Next Bridge shareholders to enrich himself. Additionally, ordinary shareholders have already seen the statements made by the Subject Account and believe they were made by Petitioner himself. *See Exhibit 3.*

28. The Subject Tweets give rise to claims for fraud, libel, and market manipulation.

Need for Relief and Lack of Burden on Respondent

29. The Subject Account does not disclose the identity of the owner/operator of the account, nor does it provide user information (*e.g.* email address, phone number, Google or Apple account) (collectively, “Account Information”).

30. Such information, including but not limited to the Account Information, is in the possession of Twitter, as it is information required to open an account with Twitter.³

31. Twitter is the *only* source that has access to the Account Information and can identify the owner(s) and operator(s) of the Subject Account, in addition to the identity of the users who posted the Subject Tweets.

32. The relief requested herein is therefore necessary for Petitioner to include the true name of the person(s) who own and operate the Subject Account in the caption of the case Petitioners intend to commence against the owner(s)/operator(s) of the Subject Account for fraud, libel and market manipulation.

33. Without this information, Petitioner will be unable to ascertain the identity/identities of the owner(s) and operator(s) of the Subject Account, including the author(s) who published the Subject Tweets, and consequently, Petitioner will be foreclosed from bringing his action(s).

34. The information Petitioner seeks is readily available to Respondent, and would impose essentially no burden on Respondent. Indeed, Respondent only needs to check its records and data relating to the account owner(s) and operator(s) and their IP Address(es), and turn the relevant information over to Petitioner's legal counsel.

35. Based on the circumstances alleged in this Petition, Petitioner is entitled to the disclosure sought under New York law and the CPLR.

36. No prior application for the relief requested herein has been made.

PRAYER FOR RELIEF

WHEREFORE, Petitioner John Brda prays for an Order:

³ Twitter allows potential users to create a Twitter account with either a valid phone number or email address, or using a pre-existing Google or Apple account. See Twitter, *available at* <https://twitter.com/i/flow/signup> (last accessed May 24, 2023).

- A. pursuant to CPLR § 3102, compelling Respondent to disclose the basic subscriber information, including the Account Information, records, IP Addresses, meta data or similar information sufficient to identify the owner or operator of the “John Brda (Parody)” (@john_brda) Twitter account;
- B. pursuant to CPLR § 3102, compelling Respondent to disclose the basic subscriber information, including the Account Information, records, IP Addresses, meta data or similar information sufficient to identify the operator of the “John Brda (Parody)” (@john_brda) Twitter account who posted the Subject Tweets;
- C. pursuant to CPLR § 3102, directing Respondents to preserve all evidence relating to the subscriber information, log-in, IP Addresses, meta data, similar information, and tweets of the “John Brda (Parody)” (@john_brda) Twitter account described herein; and
- D. granting such other and further relief that the Court deems just and proper.

DATED: May 30, 2023

Respectfully Submitted,

/s/ Mark R. Basile

Mark R. Basile, Esq.

THE BASILE LAW FIRM P.C.

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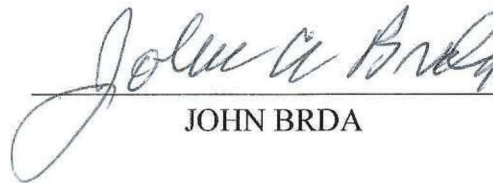
Email: mark@thebasilelawfirm.com

Attorneys for Petitioner John Brda

VERIFICATION

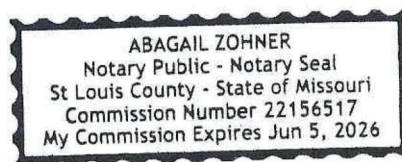
STATE OF MO)
) SS:
 COUNTY OF St. Louis)

JOHN BRDA, being duly sworn, deposes and says: I am the Petitioner in this special proceeding. I have read the foregoing Verified Petition for Pre-Action Discovery and know the contents thereof; and the same is true to my own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.


 JOHN BRDA

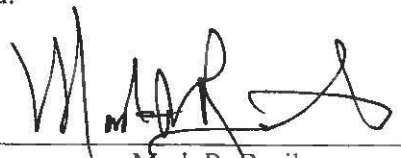
Sworn to before me on this
30th day of May, 2023


 NOTARY PUBLIC




CERTIFICATE OF CONFORMITY PURSUANT TO CPLR 2309(c)

The undersigned does hereby certify that he is an attorney at law duly admitted to practice in the State of New York; that he makes this affidavit in accordance with the requirements of the Clerk of the County of New York pertaining to the acknowledgement of the proof of the Verification of John Brda, to be filed in the New York Supreme Court, New York County; that the foregoing acknowledgement of John Brda named in the foregoing instrument taken before Abigail Zohner, a notary in the State of Missouri, being the state in which it was taken, and based upon my review thereof, appears to conform with the law of the state of Missouri as to the purpose for which it is submitted and filed.



Mark R. Basile

Sworn to before me this
31st day of May, 2023



Notary Public

GUSTAVE PAUL PASSANANTE
Notary Public - State of New York
Registration No. 02PA6408048
Qualified in SUFFOLK County
My Commission Expires: August 3, 2024